

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

POLK MECHANICAL COMPANY, LLC

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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Case No. 4:24-cv-00049

UNITED STATES' ANSWER TO ORIGINAL COMPLAINT

The United States files this answer to Plaintiff's Complaint for Refund.

General Defenses

1. This Court may lack subject matter jurisdiction over Plaintiff's claim for refund of penalties.

2. To the extent that Plaintiff seeks damages pursuant to 26 U.S.C. § 7433, this Court lacks subject matter jurisdiction and Plaintiff fails to state a claim upon which relief can be granted upon such a claim.

Answer

The United States hereby answers the specifically numbered paragraphs of the Plaintiff's Complaint for refund as follows:

1. The United States admits the allegations contained in paragraph 1 of the Complaint.

2. Subject to the defenses set out above, the United States admits the allegations contained in paragraph 2 of the Complaint.

3-4. The United States admits the allegations contained in paragraphs 3-4 of the Complaint.

5. Paragraph 5 contains statements of law that do not require a response; however, to the extent it requires a response, the United States denies that it is a full and complete statement of the law.

6-11. The CARES Act speaks for itself. The United States denies that paragraphs 6 through 11 are complete and accurate statements of the law.

12-14. The United States is presently without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 12-14.

15. The United States admits the allegations contained in paragraph 15 of the Complaint, but avers that the Form 941 received by the IRS for the 1st quarter of 2021 was signed on April 30, 2021, not April 29, 2021.

16-18. The United States admits the allegations contained in paragraphs 16-18 of the Complaint.

19. The United States denies the allegations in paragraph 19 of the Complaint.

20-21. The United States admits the allegations contained in paragraphs 20-21 of the Complaint.

22-29. The United States admits the allegations contained in paragraphs 22-29 of the Complaint.

30-37. The United States is presently without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 30-37.

38. The United States admits that the Form 941-X for Q1 2021 was mailed on January 28, 2022. The United States is presently without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in paragraph 38.

39. The United States is presently without sufficient knowledge or information to form a belief as to the truth of the allegations in the first two sentences of paragraph 39. The United States admits that USPS tracking shows a delivery date of May 2, 2022. The United States admits the remaining allegations in paragraph 39 of the Complaint, but avers that Line 15 “Overpayment” shows \$2,056,597.16.

40. The United States admits that the Form 941 for the taxable period ended June 30, 2022, was mailed on July 29, 2022, but the United States is presently without sufficient knowledge or information to know that the return was received in Ogden, UT on August 2, 2022. The United States admits the allegations contained in the last two sentences of paragraph 40.

41-42. The United States is presently without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 41-42.

43. Paragraph 43 does not require a response, but to the extent it does, the United States incorporates by reference its responses to paragraphs 1 through 42.

44. Paragraph 44 is a recitation of the law and does not require a response, but the United States denies it is a complete and accurate statement of the law.

45-49. The United States denies the allegations contained in paragraphs 45-49 of the Complaint.

All other allegations not expressly admitted are denied.

THEREFORE, the United States asks that the Court dismiss the Complaint, deny the relief requested, and grant all further relief to which the United States may be entitled.

DAVID A. HUBBERT
Deputy Assistant Attorney General

MICHELLE C. JOHNS

/s/ Michelle C. Johns

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ATTORNEYS FOR UNITED STATES

CERTIFICATE OF SERVICE

I certify that on the 22nd day of March, 2024, a true and correct copy of the foregoing was filed with the Court's CM/ECF system, which sent notice of the filing to the attorneys of record.

/s/ Michelle C. Johns

MICHELLE C. JOHNS